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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,759	08/06/2003	Bruce B. Randolph		9353

7590 09/15/2005

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EXAMINER

PASTERCZYK, JAMES W

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/635,759	RANDOLPH ET AL.	
	Examiner	Art Unit	
	J. Pasterczyk	1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 12-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This Office action is in response to the amendment filed 6/24/05 and refers to the first Office action mailed 2/22/05.

2. Applicant's election with traverse of claims 1-11 in the reply filed on 6/24/05 is acknowledged. The traversal is on the ground(s) that there is no burden to search the claims drawn to processes using the catalyst of claims 1-11. This is not found persuasive because the invention of using the catalyst is classified in a totally different class and normally handled by a different art unit than the one to which this case was originally assigned.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Page 4 of the specification supports that the anions of the present invention may be from a closed Markush group, not a semiclosed group, hence the use of "consists essentially of" when reciting the genres of halides of elements that the anions may be is new matter. This is found in claims 1 and 4

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, delete (IIIA) as being confusing compared to the clearer terminology of using Arabic numerals. In the last line change "and" to a comma. These changes should also be made to claim 4.

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In claims 10 and 11 remove the Roman numerals as confusing.

In claim 7, the last member of the group is incorrect since boron is not a metal as claim 1 requires.

5. The examiner further informally notes that in claim 6, reciting that the R groups have some number of carbon atoms per molecule is confusing since the moieties to which these R groups belong are cations; in addition, having only up to 7 carbon atoms in one of these moieties can be rather confining, especially in the pyridyl cation which already has five carbon atoms.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Benazzi as cited in and for the reasons of record in paragraph 9 of the previous Office action.

8. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benazzi as cited in and for the reasons of record given in paragraph 11 of the previous Office action.

9. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benazzi in view of Welton as cited in and for the reasons of record given in paragraph 12 of the previous Office action.

10. Applicant's arguments filed 6/24/05 have been fully considered but they are not persuasive. Examples 1 and 3 at least of Benazzi disclose pore diameters reading on the present claims, thus it seems that the prior art recognized or at least serendipitously discovered the importance of pore diameters of this size. Regarding the argument that the cuprous chloride of Benazzi's example 1 is not anionic, it appears to be introduced as a neutral compound and the present inventors have not shown that it becomes anionic upon introduction to the remainder of

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the reagents in the catalyst composition. Besides, the present invention uses semi-closed Markush language to apply to the anion only, not any other added reagents, hence cuprous chloride may fall into the group of other reagents added as a neutral compound.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 571-272-1375. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Pasterczyk

AU 1755

9/8/05



J.A. LORENZO
SUPERVISORY PATENT EXAMINER